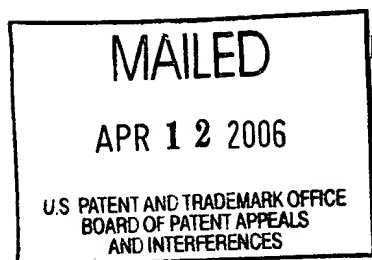


The opinion in support of the decision being entered today was **not** written for publication and is **not** binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE



BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KENNETH W. O'FLAHERTY

Appeal No. 2005-2561
Application No. 09/608,595

ON BRIEF

Before BARRY, BLANKENSHIP and NAPPI, **Administrative Patent Judges.**

NAPPI, **Administrative Patent Judge.**

DECISION ON APPEAL

This is a decision on the appeal under 35 U.S.C. § 134 from the examiner's rejection of claims 1 through 42. For the reasons stated *infra* we reverse the examiner's rejection of these claims.

The Invention

The invention relates to a management system which makes use of predictive models that have been constructed by a model- building mechanism in a data mining system. The system is for users who are unfamiliar with data mining. See page 3 of appellant's specification.

Claim 1 is representative of the invention and is reproduced below:

1. A method for using predictive models within a computer-implemented business analysis environment, comprising:
 - (a) applying a derived measure against a segment, wherein the derived measure comprises a predictive model previously-built by a model-building mechanism in a data mining system; and
 - (b) generating output for the segment from the predictive model in the form of measure values.

Reference

The reference relied upon by the examiner is:

Amado	5,701,400	December 23, 1997
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Rejection at Issue

Claims 1 through 42 stand rejected under 35 U.S.C. § 102 as being anticipated by Amado.

Opinion

We have carefully considered the subject matter on appeal, the rejection advanced by the examiner and the evidence of anticipation relied upon by the examiner as support for the rejection. We have, likewise, reviewed and taken into consideration,

in reaching our decision, the appellant's arguments set forth in the briefs, along with the examiner's rationale in support of the rejection and arguments in rebuttal set forth in the examiner's answer. With full consideration being given to the subject matter on appeal, the examiner's rejection and the arguments of appellant and examiner, for the reasons stated *infra*, we will not sustain the examiner's rejection of claims 1 through 42.

Appellant asserts, on pages 4 and 5 of the brief, that Amado does not teach the limitation of "applying a derived measure against a segment, wherein the derived measure comprises a predictive model previously-built by a model-building mechanism in a data mining system" as recited in independent claims 1, 15 and 29. Appellant argues Amado merely describes predictive modeling and data mining generally, but does not teach a measure, which comprises a predictive model.

On page 13 of the answer, the examiner equates the records in the database of Amado with the claimed "segments". The examiner equates the claimed "measures" with formulas in Amado. On pages 13 and 14 of the answer, the examiner reasons that:

Amado does teach a formula applied to a segment data structure ("count the number of records in PRRESULT containing the field PER equal to or larger than PerIni and smaller or equal than PerFin and then store this number the count in variable CountDiag", column 88, lines 64-67), wherein a record is a data structure that is identical to the claimed segments. A 'count' is a formula applied against said segments or records ... Since a count ... produces the numerical result of a counting formula or function, it is in fact a measure of the number of records..."

Further, the examiner asserts two different aspects of Amado teach the use of predictive models. On page 6 of the answer, the examiner cites Amado, column 17,

lines 18 through 26 as teaching forecasting and predictions. Also on, page 14 of the answer, the examiner equates Amado's "diagnostics" with the claimed predictive mode.

We disagree with the examiner's rationale. Claim 1 contains the limitation "applying a derived measure against a segment, wherein the derived measure comprises a predictive model previously-built by a model-building mechanism in a data mining system." Claims 15 and 29 contain similar limitations. Appellant's specification, on pages 4 and 5, defines a segment as "a grouping of data elements organized about one or more attributes" and defines a measure as "a formula applied against a Segment or Sub-segment. A measure may involve simply aggregating values retrieved from a database, computing a formula, or executing a previously-built predictive model." Thus, we concur with the examiner's finding equating Amado's database and formula with the claimed segment and measures. However, claim 1 identifies the measure as being a predictive model.

We do not find that Amado teaches that the formulas (measures) applied to the data in the database (segments) are predictive measures. The discussion of predictive models, in column 17 of Amado, is directed to the background of the invention but Amado does not teach that such models are used as part of Amado's invention. Nor does Amado teach that the predictive models are built by a model-building mechanism in a data mining system. Similarly, we are not persuaded by the examiner's assertion, on page 14 of the answer: "Amado's does teach a predictive model ('the ability to identify and execute specific actions as soon as particular diagnostics are generated or activated. Each diagnostic may have an associated set of actions. Suggested actions

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